



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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PLANNING DIVISION

ZONING BOARD OF APPEALS MEMBERS

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Case #: ZBA 2019-01
Site: 7 Oak Street
Date of Decision: August 7, 2019
Decision: *Approved with Conditions*
Date Filed with City Clerk: August 12, 2019

ZBA DECISION

Site: 7 Oak Street

Applicant Name: Dalfior Development, Inc.

Applicant Address: One City Hall Mall, Suite 2, Medford, MA 02155

Property Owner Name: Joseph Trofimow, Trustee of the Trofimow Family Realty Trust

Property Owner Address: 7 Oak Street, Somerville, MA 02143

Agent Name: Adam Dash, Esq.

Agent Address: 48 Grove Street, Suite 304, Somerville, MA 02144

City Councilor: J.T. Scott

Legal Notice: Applicant, Dalfior Development, Inc., and Owner, Joseph Trofimow, Trustee of the Trofimow Family Realty Trust, seeks a special permit with site plan review under SZO §7.2 to erect a second principal structure on the lot. The existing structure is proposed to become a single family dwelling and the proposed structure is proposed to be a two-family dwelling. A special permit under SZO §9.13 for parking relief is also required. RB Zone. Ward 2.

<u>Zoning District/Ward:</u>	RB Zone. Ward 2
<u>Zoning Approval Sought:</u>	SZO §7.2 and §9.13
<u>Date of Application:</u>	January 3, 2019
<u>Date(s) of Public Hearing:</u>	July 17, 2019 and August 7, 2019
<u>Date of Decision:</u>	August 7, 2019
<u>Vote:</u>	4-0

Case number ZBA 2019-01 was opened before the Zoning Board of Appeals in the Council Chambers at Somerville City Hall. Notice of the Public Hearing was given to persons affected and was published and posted, all as required by M.G.L. c. 40A, sec. 11 and the Somerville Zoning Ordinance. On August 7, 2019, the Zoning Board of Appeals took a vote.



CITY HALL • 93 HIGHLAND AVENUE • SOMERVILLE, MASSACHUSETTS 02143
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I.PROJECT DESCRIPTION

The proposal is to construct a second principal structure on the lot. The existing structure will become a single family and the proposed structure will contain two units. As a result the lot will contain three dwelling units. The proposed structure will be 2.5 stories and match the height of the existing structure on the lot. The site will contain a driveway between the structures that provides three parking spaces behind the existing structure and an open landscaped area behind the proposed structure.

II. FINDINGS FOR SPECIAL PERMIT with SITE PLAN REVIEW (SZO §7.2) and SPECIAL PERMIT (SZO § 9.13):

In order to grant a special permit with site plan review, the SPGA must make certain findings and determinations as outlined in §5.2.5 of the SZO. This section of the report goes through §5.2.5 in detail.

1. Information Supplied:

The Board finds that the information provided by the Applicant conforms to the requirements of §5.2.3 of the SZO and allows for a comprehensive analysis of the project.

2. Compliance with Standards: *The Applicant must comply “with such criteria or standards as may be set forth in this Ordinance which refer to the granting of the requested special permit with site plan review.”*

Article 7: Permitted Uses

SZO §7.2 allows for more than one principal structure per lot in the RB zoning district by Special Permit with Site Plan Review granted from the Zoning Board of Appeals.

Article 9: Off-Street Parking and Loading

	<i>Existing</i>		<i>Proposed</i>	
Unit #1	2 BR	1.5 spaces	5 BR	2 spaces
Unit #2	2 BR	1.5 spaces	3 BR	1.5 spaces
Unit #3	-	-	3 BR	1.5 spaces
Total	3 spaces		5 spaces	

The site currently provides only one parking space for the two-family dwelling since tandem parking spaces only count as one space for zoning purposes. Therefore, the site is nonconforming with respect to the number of required off-street parking spaces as three are currently required. For sites with a nonconforming number of parking spaces, SZO 9.4.2 only requires a proposal to provide the number of required spaces for what is being added to the site. The proposal is to a dwelling unit, which will increase the number of required parking spaces to five. The proposal is to provide the two additional required spaces on the site. **Therefore, the proposal conforms to the required number of parking spaces.**

However, SZO §9.11 (Dimensions of Parking Spaces and Maneuvering Aisles) requires a 20-foot wide maneuvering aisle width for 90-degree spaces. The proposal only provides a 10’-7” aisle width for two of the proposed spaces. SZO §9.13 allows for sites to apply for a Special Permit to modify parking area design standards. **Relief is being requested to alter parking area design standards.**



In considering a special permit under §9.13 of the SZO “the SPGA may grant such a special permit only when consistent with the purposes set forth in Section 9.1, and upon reaching the findings and determinations set forth in Section 5.1.4”. The Board finds that granting the requested Special Permit is consistent with the purposes of SZO §9.1 and will not cause detriment to increased traffic volumes, traffic congestion of queuing of vehicles, changes in the type of traffic, change in traffic patterns and access to the site, reduction in on-street parking, or unsafe conflicts of motor vehicles and pedestrian traffic.

3. Purpose of District: *The Applicant has to ensure that the project "is consistent with the intent of the specific zoning district as specified in Article 6".*

The proposal is consistent with the purpose of the RB district, which is, “to establish and preserve medium density neighborhoods of one-, two- and three-family homes, free from other uses except those which are both compatible with and convenient to the residents of such districts.”

4. Site and Area Compatibility: *The Applicant has to ensure that the project “(i)s designed in a manner that is compatible with the existing natural features of the site and is compatible with the characteristics of the surrounding area, and that the scale, massing and detailing of the buildings are compatible with those prevalent in the surrounding area”.*

Surrounding Neighborhood: The subject property is located on the northern side of Oak Street on the block between Oak Street Place and Prospect Street. Oak Street is a residential street located southwest of the proposed Union Square Green Line Station.

Impacts of Proposal (Design and Compatibility):

Special Permit with Site Plan Review applications must meet the design guidelines under SZO §5.2.4. The design guidelines for residential districts are as follows:

1. Buildings should be generally of the same size and proportions as those existing in the neighborhood. This shall apply in cases of multi-family development as well as one-, two-, and three-family units. For example, if relatively small two- and three-family structures are common in a neighborhood where multi-family development is proposed, the multi-family development should be physically broken into components that, from a design perspective, are housed in buildings of similar width, depth, and height as those typically found in the neighborhood.

The proposed building is of a similar style, size, and proportion compared to the existing structure on the site and those in the surrounding neighborhood.

2. Use of traditional and natural materials is strongly encouraged (e.g. wood clapboard, wood shingles, brick).

Traditional materials will be used for the exterior of the building. It is conditioned that final materials and colors are reviewed and approved by Planning Staff prior to the issuance of a building permit. Planning Staff will ensure that high quality building materials will be used.

3. Additions to existing structures should be consistent with the architecture of the existing structure in terms of window dimensions, roof lines etc.

N/A



4. Although additions should not clash with or be incompatible to the existing structure, it is acceptable and even desirable for the new construction to be distinguishable from the existing building, perhaps by maintenance of design elements of the original building that would otherwise be lost (e.g. false rakes, fasciae, and the like).

The gable end and return element as well as the six-over-six windows will be part of the proposed structure.

5. Where practical, new or infill building construction should share the same orientation to the street as is common in the neighborhood. When not contrary to any other zoning law, front and side yards should be of similar dimensions as those typical in the area.

The proposed infill building will have the same orientation to the street than the existing building and will have the same setback from the street, which will also be consistent with the structures on this site of the street.

6. Driveways should be kept to minimal width (perhaps a maximum of twelve feet), and be designed so that no vehicle parked on the drive may straddle the public sidewalk in any way. Low barriers or plantings may be required to separate the parking area from the pedestrian space.

The existing curb cut and driveway will be used for vehicles to be parked in the rear of the existing structure.

7. Transformers, heating and cooling systems, antennas, and the like, should be located so they are not visible from the street or should be screened.

A condition of approval is that any transformers, heating and cooling systems, antennas, and the like, should be located in a manner so that are not visible from the street or should be screened.

8. Sites and buildings should comply with any guidelines set forth in Article 6 of this Ordinance for the specific base or overlay zoning district(s) the site is located within.

N/A

5. **Functional Design:** *The project must meet “accepted standards and criteria for the functional design of facilities, structures, and site construction.”*

The project meets accepted standards and criteria for the functional design of facilities, structures, and site construction.

6. **Impact on Public Systems:** *The project will “not create adverse impacts on the public services and facilities serving the development, such as the sanitary sewer system, the storm drainage system, the public water supply, the recreational system, the street system for vehicular traffic, and the sidewalks and footpaths for pedestrian traffic.”*

The proposal is not expected to create adverse impacts on the public services and facilities serving the locus, such as the sanitary sewer system, the storm drainage system, the public water supply, the



recreational system, the street system for vehicular traffic, and the sidewalks and footpaths for pedestrian traffic.

7. Environmental Impacts: *“The proposed use, structure or activity will not constitute an adverse impact on the surrounding area resulting from: 1) excessive noise, level of illumination, glare, dust, smoke, or vibration which are higher than levels now experienced from uses permitted in the surrounding area; 2) emission of noxious or hazardous materials or substances; 3) pollution of water ways or ground water; or 4) transmission of signals that interfere with radio or television reception.”*

Except for regular construction activity, the proposal is not expected to create an adverse impact on the environment.

8. Consistency with Purposes: *“Is consistent with: 1) the purposes of this Ordinance, particularly those set forth in Article 1 and Article 5; and 2) the purposes, provisions, and specific objectives applicable to the requested special permit with site plan review which may be set forth elsewhere in this Ordinance, such as, but not limited to, those at the beginning of the various sections.”*

The Board believes that the proposal would be consistent with the general purposes of the Ordinance as set forth under §1.2, which includes, but is not limited to promote the health, safety, and welfare of the inhabitants of the City of Somerville; to provide for and maintain the uniquely integrated structure of uses in the City; to lessen congestion in the streets; to protect health; to secure safety from fire, panic and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to conserve the value of land and buildings; to encourage the most appropriate use of land throughout the City; and to preserve and increase the amenities of the municipality.

9. Preservation of Landform and Open Space: *The Applicant has to ensure that “the existing land form is preserved in its natural state, insofar as practicable, by minimizing grading and the erosion or stripping of steep slopes, and by maintaining man-made features that enhance the land form, such as stone walls, with minimal alteration or disruption. In addition, all open spaces should be designed and planted to enhance the attractiveness of the neighborhood. Whenever possible, the development parcel should be laid out so that some of the landscaped areas are visible to the neighborhood.”*

The proposal will involve minimal grading and the existing land form will be maintained. The proposal will relocate an existing tree to the front yard of the proposed structure and new plantings will be installed in the rear and right side property lines. Overall, the proposal will enhance the attractiveness of the neighborhood.

10. Relation of Buildings to Environment: *The Applicant must ensure that “buildings are: 1) located harmoniously with the land form, vegetation and other natural features of the site; 2) compatible in scale, design and use with those buildings and designs which are visually related to the development site; 3) effectively located for solar and wind orientation for energy conservation; and 4) advantageously located for views from the building while minimizing the intrusion on views from other buildings.”*

The proposal is designed at a scale that is compatible with the use and design of other buildings in the neighborhood.

11. Housing Impact: Will not create adverse impacts on the stock of existing affordable housing.



12. SomerVision Plan: Complies with the applicable goals, policies and actions of the SomerVision plan, including the following, as appropriate: Preserve and enhance the character of Somerville’s neighborhoods.

<i>SomerVision Summary</i>	<i>Existing</i>	<i>Proposed</i>
<i>Dwelling Units:</i>	2	3
<i>Affordable Units:</i>	0	0
<i>Parking Spaces:</i>	1	3

III. DECISION:

Present and sitting were, Susan Fontano, Danielle Evans, Anne Brockelman, and Drew Kane (alt.). Upon making the above findings, Danielle Evans made a motion to approve the request for a Special Permit. Anne Brockelman seconded the motion. The Zoning Board of Appeals voted **4-0** to **APPROVE** the request **WITH CONDITIONS**. The following conditions were attached:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes																
1	<p>Approval is for the construction of a second principal structure. This approval is based upon the following application materials and the plans submitted by the Applicant:</p> <table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>January 3, 2019</td> <td>Initial application submitted to the City Clerk’s Office</td> </tr> <tr> <td>May 24, 2019</td> <td>Plans submitted to OSPCD (A006 (sun study))</td> </tr> <tr> <td>July 24, 2019 (July 29, 2019)</td> <td>Title Page</td> </tr> <tr> <td>July 29, 2019 (July 29, 2019)</td> <td>Title Page</td> </tr> <tr> <td>July 18, 2019 (July 29, 2019)</td> <td>A00, A003, A004, A005, and A006 (landscape)</td> </tr> <tr> <td>July 25, 2019 (July 29, 2019)</td> <td>A201 (proposed elevations)</td> </tr> <tr> <td>July 17, 2019 (July 29, 2019)</td> <td>A201 (existing and proposed south and east elevations) and A202 (existing and proposed north and west elevations)</td> </tr> </tbody> </table> <p>Any changes to the approved (site plan or elevations/use) that are not <i>de minimis</i> must receive SPGA approval.</p>	Date (Stamp Date)	Submission	January 3, 2019	Initial application submitted to the City Clerk’s Office	May 24, 2019	Plans submitted to OSPCD (A006 (sun study))	July 24, 2019 (July 29, 2019)	Title Page	July 29, 2019 (July 29, 2019)	Title Page	July 18, 2019 (July 29, 2019)	A00, A003, A004, A005, and A006 (landscape)	July 25, 2019 (July 29, 2019)	A201 (proposed elevations)	July 17, 2019 (July 29, 2019)	A201 (existing and proposed south and east elevations) and A202 (existing and proposed north and west elevations)	CO / BP	ISD/PIng.	
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Pre-Construction				
2	The Applicant must contact the Engineering Department to obtain a street address prior to a building permit being issued.	BP	Eng	
3	The proposed basement finished floor elevation shall not be less than is 1 foot above the Seasonal High Ground Water elevation. The seasonal high ground water elevation shall be determined by a Massachusetts certified soil evaluator and stated on a signed soil test pit log.	BP	Eng.	
4	The Applicant shall complete the Site Plan Review Checklist and supply the information to the Engineering Office. The plans must comply with the City's Stormwater Management Policy.	BP	Eng.	
5	The applicant must comply with the Policy for new connections to and modifications to existing connections to the municipal sewer and drainage system stormwater management and infiltration/inflow mitigation. The Applicant shall work with Engineering to meet this condition and provide the required fees/mitigation.	CO	Eng.	
6	The Applicant must contact the Engineering Department to coordinate the timeline for cutting or opening the street and/or sidewalk for utility connections or other construction. There is a moratorium on opening streets from November 1st to April 1st and there is a list of streets that have additional opening restrictions.	BP	Eng	
7	The Applicant shall conduct a survey of the houses of the abutting property owners prior to excavation of the site, and document their findings. These findings shall be submitted to the Planning Department as public record. The Applicant then shall survey any damage to the abutting property owner's houses after excavation and reimburse the property owners for any damages.	BP	ISD/Plng.	
Construction Impacts				
7	The applicant shall post the name and phone number of the general contractor at the site entrance where it is visible to people passing by.	During Construction	Plng.	
8	The Applicant shall at his expense replace any existing equipment (including, but not limited to street sign poles, signs, traffic signal poles, traffic signal equipment, wheel chair ramps, granite curbing, etc) and the entire sidewalk immediately abutting the subject property if damaged as a result of construction activity. All new sidewalks and driveways must be constructed to DPW standard.	CO	DPW	
9	All construction materials and equipment must be stored onsite. If occupancy of the street layout is required, such occupancy must be in conformance with the requirements of the Manual on Uniform Traffic Control Devices and the prior approval of the Traffic and Parking Department must be obtained. Construction and contractor vehicles must park on-site and are prohibited from parking on any public way.	During Construction	T&P	

10	For the convenience of and respect for the neighborhood, during the construction phase, construction work shall not begin prior to 7:30am and shall finish no later than 5pm Monday through Friday. There shall be no construction or construction-related work performed on weekends or holidays.	During Construction	ISD	
Design				
11	Applicant shall provide final material samples for siding, trim, windows, and doors to Planning Staff for review and approval prior to construction.	BP	Plng.	
Site				
12	Landscaping should be installed and maintained in compliance with the American Nurserymen's Association Standards;	Perpetual	Plng. / ISD	
13	The driveway must be constructed of pervious pavers.	CO	Plng.	
14	The electric, telephone, cable TV and other such lines and equipment for the proposed structure shall be placed underground from the source or connection. The utilities plan shall be supplied to the Wiring Inspector before installation.	Installation of Utilities	Wiring Inspector	
Miscellaneous				
15	Gas and electric meters shall not be on the front of the structure. Gas and electric meters may be located on the side of the structure but shall be screened from the street by a hardy, staff approved evergreen planting. Utilities shall not be located adjacent to windows and shall not impact any parking, landscaping, or egress. The provisions of this condition may be waived by staff if the applicant submits a letter from the utility, signed by a utility representative, on utility letterhead, indicating that there is no feasible alternative to placing meters in violation of this condition.	CO	ISD	
16	Electrical conduits on the exterior facades of buildings shall be painted to match the wall material to which they are attached. Conduits are not allowed on the front of any structure.	CO	Plng.	
17	Garbage and recycling locations shall be clearly indicated on site plans. Storage areas shall be inside of the structure or shall be fully screened from view from both the public way and abutters by an appropriate material reviewed and approved by staff. The location shall not impact any parking, landscaping, or egress.	BP	Plng.	
18	Granting of the applied for use or alteration does not include the provision for short term rental uses, such as AirBnB, VRBO, or the like. Separate approvals are needed for the aforementioned uses.	Ongoing	ISD / Plng.	
19	The Applicant, its successors and/or assigns, shall be responsible for maintenance of both the building and all on-site amenities, including landscaping, fencing, lighting, parking areas and storm water systems, ensuring they are clean, well kept and in good and safe working order.	Cont.	ISD	
Public Safety				



20	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
21	To the extent possible, all exterior lighting must be confined to the subject property, cast light downward and must not intrude, interfere or spill onto neighboring properties.	CO	Plng.	
Final Sign-Off				
22	The Applicant shall contact Planning Staff at least five working days in advance of a request for a final inspection by Inspectional Services to ensure the proposal was constructed in accordance with the plans and information submitted and the conditions attached to this approval.	Final sign off	Plng.	
Miscellaneous				
23	Prior to the issuance of a building permit, the Applicant must retain a certified arborist to present a plan to Planning Staff for review and approval that outlines methods to successfully: protect existing trees on and immediately adjacent to the site, transplant the existing tree in the front, plant new trees, and maintain all of the trees on and immediately adjacent to the site.	BP	Plng./ City Arborist	
24	If the transplanted tree in the front of the new structure does not survive, the Applicant/Owner, its successors, and/or assigns must retain a certified arborist to present a plan to Planning Staff for review and approval to plant another tree of 2-2.5" caliper.	Ongoing	Plng./ City Arborist	
25	The Applicant must submit an updated landscape plan to Planning Staff for their review and approval showing the existing and proposed location of trees that are intended to be relocated.	BP	Plng.	



Attest, by the Zoning Board of Appeals:

Susan Fontano, *Chair*
Danielle Evans, *Clerk*
Anne Brockelman
Drew Kane (Alt.)

Attest, by Planner:

Alexander Mello

Copies of this decision are filed in the Somerville City Clerk's office.
Copies of all plans referred to in this decision and a detailed record of the
SPGA proceedings are filed in the Somerville Planning Dept.

CLERK'S CERTIFICATE

Any appeal of this decision must be filed within twenty days after the date this notice is filed in the Office of the City Clerk, and must be filed in accordance with M.G.L. c. 40A, sec. 17 and SZO sec. 3.2.10.

In accordance with M.G.L. c. 40 A, sec. 11, no variance shall take effect until a copy of the decision bearing the certification of the City Clerk that twenty days have elapsed after the decision has been filed in the Office of the City Clerk and no appeal has been filed, or that if such appeal has been filed, that it has been dismissed or denied, is recorded in the Middlesex County Registry of Deeds and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title.

Also in accordance with M.G.L. c. 40 A, sec. 11, a special permit shall not take effect until a copy of the decision bearing the certification of the City Clerk that twenty days have elapsed after the decision has been filed in the Office of the City Clerk and either that no appeal has been filed or the appeal has been filed within such time, is recorded in the Middlesex County Registry of Deeds and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The person exercising rights under a duly appealed Special Permit does so at risk that a court will reverse the permit and that any construction performed under the permit may be ordered undone.

The owner or applicant shall pay the fee for recording or registering. Furthermore, a permit from the Division of Inspectional Services shall be required in order to proceed with any project favorably decided upon by this decision, and upon request, the Applicant shall present evidence to the Building Official that this decision is properly recorded.

This is a true and correct copy of the decision filed on _____ in the Office of the City Clerk, and twenty days have elapsed, and

FOR VARIANCE(S) WITHIN

_____ there have been no appeals filed in the Office of the City Clerk, or
_____ any appeals that were filed have been finally dismissed or denied.

FOR SPECIAL PERMIT(S) WITHIN

_____ there have been no appeals filed in the Office of the City Clerk, or
_____ there has been an appeal filed.

Signed _____ City Clerk Date _____

